THE HON'BLE SRI JUSTICE RAMESH RANGANATHAN

WRIT PETITION NO. 19889 OF 1994

Between:

Hindu Aided Upper Primary School, Etidari Kodertilanka, Achanta Mandal, West Godavari District rep.,by its Correspondent Sri G.V. Gopal Rao, S/o Subbarayudu, aged about 65 years, r/o Etidari Kodertilanka, Achanta Mandal, West Godavari District.

... Petitioner

and

1. Government of A.P., Education Department, Secretariat, Hyderabad rep.,by its Secretary and two others.

... Respondents.

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ORDER:

Questioning the proceedings of the 1st respondent dated 30.05.1994 and for a consequential direction to the respondents to release grant-in-aid for the period from 01.09.1986 to 31.07.1988, the present writ petition is filed.

2. The 1st respondent, vide proceedings dated 30.05.1994, informed the 2nd respondent that the government had no reason to release the amount to the Management of the school to

the extent of salaries paid to the teacher beyond the age of 58 years, as the High Court had only directed the Management of the School, (the petitioner herein), to pay salary to the teacher for the period, he worked with them, beyond the age of superannuation of 58 years.

3. Brief facts, to the extent necessary for this writ petition, are that one Sri G. Vijaya Gopal Rao joined as a Higher grade teacher in the petitioner institution on 03.04.1948. The post of teachers in the petitioner school was admitted to grant-in-aid. Questioning the action of the respondents, in reducing the age of superannuation from 58 years to 55 years, Sri G. Vijaya Gopal Rao filed W.P.No. 6657 of 1983 and this Court passed interim orders directing the petitioner herein not to relieve Sri G. Vijaya Gopal Rao from the post of Secondary grade teacher. W.P.No. 6657 of 1983 was allowed on 17.11.1987 directing the petitioner herein to continue Sri G. Vijaya Gopal Rao, till he attained the age of 60 years.

4. Sri G. Vijaya Gopal Rao, filed W.P.No. 6994 of 1988 seeking a direction to the petitioner to pay salaries from 01.09.1986 till the date he worked in the said school. This Court, by order in W.P.No. 6994 of 1988 dated 22.07.1991, held that the post in which Sri G. Vijaya Gopal Rao had worked was an aided post, that the question as to whether the petitioner Management was entitled to claim aid from the government, even when the teacher was permitted to continue in service after completion of 58 years, was a matter for consideration by the government and as per rules, in case the petitioner herein approach them in the matter, and that it was not necessary to consider this question for disposal of the writ petition as the petitioner herein was bound to pay salary to Sri G. Vijaya Gopal Rao from 01.09.1986 till 31.07.1988 as they had extracted work from him. The petitioner herein was directed to pay salary of Sri G. Vijaya Gopal Rao from 01.09.1986 till the date he worked in the institution.

5. Having complied with the directions of this Court and having paid salary to Sri G.Vijaya Gopal Rao till he reached the age of 60 years, the petitioner herein has chosen to approach this Court seeking a direction that the amount paid by them to Sri G.Vijaya Gopal Rao be reimbursed by the government. Pursuant to repeated representations being submitted by the petitioner herein, the impugned proceedings dated 30.05.1994 came to be passed rejecting the request of the petitioner herein to be reimbursed the amount which they had paid Sri G. Vijaya Gopal Rao as salary beyond the age of 58 years till he reached the age of 60 years.

6. In the Counter-affidavit filed by the Director of School Education, it is specifically stated that the Government in G.O.Ms.No. 457 dated 12.10.1984 had enhanced the age of retirement from 55 years to 58 years and accordingly Sri G. Vijaya Gopal Rao had been continued in service till he attained the age of 58 years and paid salary from grant-in-aid till he attained the age of superannuation of 58 years. It is further stated that earlier teachers, working in aided institutions, were not entitled to pension and as such an agreement had been reached between the teachers and the school Managements to continue teachers in those institutions till they attained the age of 60 years. Subsequently, the A.P. Revised Pension rules were extended to Teachers working in the aided institutions and with the intention of ensuring uniformity between teachers working in Government, Panchayatraj and aided institutions, the Government had reduced the age of superannuation in respect of teachers working in private aided institutions

from 60 years to 58 years.

7. The question which arises for consideration is as to whether the government is liable to release grant-in-aid for this period of service rendered by Sri G. Vijaya Gopal Rao, as a teacher in the petitioner school, beyond the age of superannuation of 58 years. It is well settled that the amount released by the Government, as grant-in-aid is in the nature of financial assistance and it is for the government to impose such conditions, as it considers appropriate, while providing such financial assistance. The Government, in its wisdom, has chosen to restrict release of grant-in-aid only till teachers attain the age of superannuation of 58 years. In the absence of any statutory provision, the Government cannot be required to release grant-in-aid to teachers beyond the age of superannuation of 58 years as prescribed in G.O.Ms.No. 457 dated 12.10.1984. The order of this Court, in W.P.No. 6994 of 1988 dated 22.07.1991, does not also require the government to provide grant in aid. Since the petitioner had extracted work from Sri G. Vijaya Gopal Rao having continued him in service till he reached the age of 60yers, it was held liable to pay salary for the said period. Merely because the petitioner had paid salary to Sri G. Vijaya Gopal Rao till he reached 60 years of age would not entitle it to claim, as a matter of right, that government should reimburse it, more so as the government orders require a teacher to be retired from service on reaching the age of superannuation of 58 years. The impugned order dated 30.05.1995 does not suffer from any illegality warranting interference of this Court under Article 226 of the Constitution of India. The writ petition fails and is accordingly dismissed. However in the circumstances without costs.

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Date: 06.06.2006 RAMESH RANGANATHAN, J

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